

BILL NO. S-73-08 -43

SPECIAL ORDINANCE NO. S- 95-73

AN ORDINANCE approving Agreement with NOBIS-WESTROPP CONSTRUCTION for construction of Cook Road Feeder Main Phase II.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. The Agreement dated August 13, 1973 between NOBIS-WESTROPP CONSTRUCTION as Contractor, and the CITY OF FORT WAYNE, by and through its Mayor and Board of Public Works, for the construction of Cook Road Feeder Main Phase II, as follows:

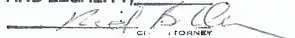
the installation of 2002+ feet of 16 inch ductile iron water main and it's appurtances on the Cook Road, from the existing main at Cranberry Lane, eastward a distance of 2002 + feet, all as shown on Fort Wayne Water Utility drawing No. Y-10458, sheets 1-3, and do everything required by the contract documents and this agreement.

the entire cost and expense of construction of said feeder main to be borne as follows: \$18,772.82 to be borne by Fort Wayne Community Schools, \$9635.68 to be borne by the City of Fort Wayne, and to hold the City harmless from any liability for claims connected therewith, all as more particularly set forth in said Agreement, which is on file in the office of the Board of Public Works, and is by reference incorporated herein and made a part hereof, is hereby in all things ratified, confirmed and approved.

SECTION 3. This Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.


Councilman

APPROVED AS TO FORM
AND LEGALITY,


CLERK

Read the first time in full and on motion by Stier, seconded by Hingua, and duly adopted, read the second time by title and referred to the Committee on Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 197_____, at _____ o'clock P.M., E.S.T.

Date: 8-28-73

Charles W. Whitestone
CITY CLERK

Read the third time in full and on motion by Stier, seconded by Talarico, and duly adopted, placed on its passage. Passed (~~1967~~) by the following vote:

	AYES <u>9</u>	NAYS <u>0</u>	ABSTAINED _____	ABSENT _____	to-wit:
BURNS	<input checked="" type="checkbox"/>	_____	_____	_____	_____
HINGA	<input checked="" type="checkbox"/>	_____	_____	_____	_____
KRAUS	<input checked="" type="checkbox"/>	_____	_____	_____	_____
MOSES	<input checked="" type="checkbox"/>	_____	_____	_____	_____
NUCKOLS	<input checked="" type="checkbox"/>	_____	_____	_____	_____
SCHMIDT, D.	<input checked="" type="checkbox"/>	_____	_____	_____	_____
SCHMIDT, V.	<input checked="" type="checkbox"/>	_____	_____	_____	_____
STIER	<input checked="" type="checkbox"/>	_____	_____	_____	_____
TALARICO	<input checked="" type="checkbox"/>	_____	_____	_____	_____

DATE: 9-11-73

Charles W. Whitestone
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~Zoning Map~~) (~~General~~) (~~Annexation~~) (~~Special~~) (~~Appropriation~~) Ordinance (Resolution) No. 2-95-73 on the 11th day of September, 1973.

ATTEST: (SEAL)
Charles W. Whitestone
CITY CLERK

W. J. McMillan Jr.
PRESIDENT OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of September, 1973 at the hour of 10:10 o'clock A. M., E.S.T.

Charles W. Whitestone
CITY CLERK

Approved and signed by me this 12th day of September, 1973, at the hour of 3:00 o'clock P. M., E.S.T.

James H. Peltz
MAYOR

Bill No. S-73-08-43

REPORT OF THE COMMITTEE ON PUBLIC WORKS

We, your Committee on Public Works to whom was referred an Ordinance
approving Agreement with NOBIS-WESTROPP CONSTRUCTION for
construction of Cook Road Feeder Main Phase II

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance Do PASS.

James S. Stier - Chairman

Eugene Kraus, Jr. - Vice-Chairman

Samuel J. Talarico

William T. Hinga

Vivian G. Schmidt

James S. Stier
Eugene Kraus, Jr.
Samuel J. Talarico
William T. Hinga
Vivian G. Schmidt

DATE 9-11-73 CONCURRED IN
CHARLES W. WESTERMAN, CITY CLERK

60-21-10
8/2/73

AGREEMENT

FOR CONSTRUCTION OF COOK ROAD FEEDER MAIN PHASE II

CONTRACT NO. 73-XP-3

THIS AGREEMENT, made this 13th day of August, 1973 by and between NOBIS - WESTROPP CONSTRUCTION CO. INC. herein called the CONTRACTOR, and the City of Fort Wayne, an Indiana Municipal Corporation, herein called OWNER,

WITNESSETH, that the CONTRACTOR and the OWNER for the considerations hereinafter named, agree as follows:

ARTICLE 1. SCOPE OF WORK

CONTRACTOR shall construct and install and furnish all necessary materials, equipment and labor for the installation of 2002⁺ feet of 16 inch ductile iron water main and it's appurtenances on the Cook Road, from the existing main at Cranberry Lane, eastward a distance of 2002⁺ feet, all as shown on Fort Wayne Water Utility drawing No. Y-10458, sheets 1-3, and do everything required by the contract documents and this agreement.

ARTICLE 2. TIME OF COMPLETION

The work to be performed under this contract shall be commenced immediately upon notice to proceed and the work shall be completed within Sixty (60) consecutive calendar days after receipt of material.

ARTICLE 3. THE CONTRACT SUM

The OWNER shall pay the CONTRACTOR for the performance of the contract the sum of \$28,408.50. In the event the amount of work is increased or decreased by the OWNER, the contract sum shall be increased or decreased according to the unit price schedule set forth in the Contractor's Proposal.

ARTICLE 4. PROGRESS PAYMENTS

The OWNER shall make payments on account of the contract as provided therein, as follows:

On or about the 15th day of each month, ninety percent(90%) of the value of the work performed up to the first day of that month (based on the contract prices of labor and materials incorporated in the work) and as estimated by the CONTRACTOR and approved or revised by the Engineering Department of the OWNER, less the aggregate of previous payments.

ARTICLE 5. ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and the contract is fully performed.

Upon receipt of written notice that the work is ready for final inspection and acceptance, the Engineering Department of the OWNER shall promptly make such inspection, and when it finds the work acceptable under the contract and the contract fully performed, it shall promptly issue a final certificate stating that the work provided for in this contract has been completed and is accepted, and the entire balance of the contract sum shall be due and payable to the CONTRACTOR.

At the time said payment is due and payable, the CONTRACTOR shall furnish the OWNER, if requested to do so, satisfactory evidence that all persons who have supplied labor, materials, or equipment for the work have been fully paid.

ARTICLE 6. GUARANTEE OF MATERIALS AND WORKMANSHIP

CONTRACTOR guarantees all materials and work against defects for a period of one year after the date of the acceptance of the work.

ARTICLE 7. THE CONTRACT DOCUMENTS

The Instructions to Bidders, Specifications, Contractor's Proposal, Bond, and this Agreement form the Contract, and they are as fully a part of the Contract as if hereto attached or herein repeated. The following is an enumeration of these documents:

- A. Instructions to Bidders for Contract No. 73-XP-3.
- B. Contractor's Proposal dated July 24, 1973.
- C. Contractor's Bond.
- D. Supplemental Specifications for Cook Road Feeder Main Phase II, and Detailed Specifications and Conditions for the installation of Transmission and Distribution Mains, Contract No. 73-XP-3, and Fort Wayne Water Utility, Engineering Department Drawing No. Y-10458, Sheets 1-3.
- E. All materials shall be in accordance with Fort Wayne Water Utility, Engineering Department, Water Main Materials Standards, dated June 6, 1963, except as modified in the Supplemental Specifications.

ARTICLE 8. ADJUSTMENTS OF DISPUTES

All questions or controversies which may arise between the CONTRACTOR and the OWNER under the provisions of this contract shall be subject to the decision of the Chief Engineer of the Fort Wayne Water Utility of the OWNER, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases of the work covered by this contract will be permitted except on prior written authorization by the Board of Public Works.

ARTICLE 9. INDEMNITY

CONTRACTOR shall indemnify the OWNER against any claim or loss incurred or arising out of the performance of the work as provided herein.

ARTICLE 10. COUNCILMANIC APPROVAL

This Agreement, although executed on behalf of the OWNER by it's Mayor and Board of Public Works, shall not be binding upon the OWNER unless and until the same shall have been ratified and approved by the Common Council of the City of Fort Wayne, Indiana, and should said Common Council fail to approve the same within sixty (60) days after the date hereof, then this contract shall be and become wholly void.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

NOBIS-WESTROPP CONSTRUCTION CO., INC.

By: William M. Nobis, Jr.
CONTRACTOR

CITY OF FORT WAYNE, INDIANA

BY:

Ivan A. Lebamoff
IVAN A. LEBAMOFF, ITS MAYOR

BOARD OF PUBLIC WORKS

Jerry D. Boswell
JERRY D. BOSWELL, CHAIRMAN
Ronald L. Bonar
RONALD L. BONAR

WILLIAM G. WILLIAMS

AUG 13 1973

ATTEST:

Edna I. Smith
EDNA I. SMITH, CLERK

APPROVED AS TO FORM AND LEGALITY:

David B. Keller
DAVID B. KELLER, CITY ATTORNEY

APPROVED by the Common Council of the City of Fort Wayne on _____,
1973, Special Ordinance No. _____.

ACKNOWLEDGEMENT

STATE OF INDIANA:

SS:

COUNTY OF ALLEN:

BEFORE ME, a Notary Public, in and for said County and State, this

10th day of August, 1973, personally
appeared William M. Nobis

and acknowledged said instrument to be their voluntary act and deed
for the uses and purposes therein set forth.

IN WITNESS WHEREOF, hereunto subscribed my name, affixed my official
seal.

Donald L. Coffey
Notary Public

MY COMMISSION EXPIRES:

12/28/73

ACKNOWLEDGEMENT

STATE OF INDIANA:

SS:

COUNTY OF ALLEN:

BEFORE ME, a Notary Public, in and for said County and State, this 13th day of August, 1972, personally appeared the within named IVAN A. LEBAMOFF, Mayor of the City of Fort Wayne; JERRY D. BOSWELL, RONALD L. BONAR and ~~WILLIAM G. WILLIAMS~~, members of the Board of Public Works, City of Fort Wayne, Indiana; EDNA I. SMITH, Clerk of the Board of Public Works, City of Fort Wayne, Indiana, to me personally known, who being by me duly sworn said that they are respectively the Mayor of the City of Fort Wayne, the Members and Clerk of the Board of Public Works of the City of Fort Wayne, Indiana, and that they signed said instrument on behalf of the FORT WAYNE WATER UTILITY of the City of Fort Wayne, Indiana, with full authority so to do and acknowledged said instrument to be the voluntary act and deed of said Department of said City for the uses and purposes therein set forth.

IN WITNESS WHEREOF, hereunto subscribed my name, affixed my official seal.

Anne D. Fox

Notary Public

My Commission Expires:

March 6, 1976

CITY OF FORT WAYNE, INDIANA

IMPROVEMENT TO CITY UTILITIES - WATER WORKS DIVISION

PERFORMANCE BOND
AND GUARANTY BOND

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, Nobis-Westropp
Construction Company, Inc. of Fort Wayne, Indiana

as principal, and Fidelity and Deposit Company of Maryland

as surety, are held and firmly bound unto the State of Indiana, for the benefit
of the City of Fort Wayne, Indiana, in the penal sum of Twenty Eight Thousand
Four Hundred Eight and 50/100 Dollars (\$ 28,408.50) for the
payment of which we hereby jointly and severally bind ourselves, our heirs,
executors, administrators, successors and assigns.

DATED this 10th day of August, 1973.

THE condition of this obligation is such that whereas the above named principal
did, on the 10th day of August, 1973, enter into a contract with
the City of Fort Wayne, Indiana, by the terms of which said principal agreed to
perform everything required to be performed and to provide and furnish at his
sole cost and expense all the labor, tools, materials, expendable equipment,
transportation services, bonds and insurance required to perform and to com-
plete in a workmanlike manner all the work required in the above mentioned
contract for the sum of Twenty Eight Thousand Four Hundred Eight and 50/100
Dollars (\$ 28,408.50) and to remove and replace any defective or
unsuitable materials, equipment or structure at the expense of said principal
which may be apparent or may develop from inferior workmanship or material
within one (1) year from the date of final acceptance of the above described
work, which contract is made a part of this bond the same as set forth herein:

Now, if said principal shall well and faithfully do and perform the things agreed by him, them, or it, to be done and performed according to the terms of said contract, and shall pay all lawful claims or indebtedness which may accrue, by operation of law and otherwise, to any persons, firm or corporation on account of any labor or service performed or material furnished or service rendered, in the carrying forward, performing, and completing of said contract; we agreeing and assenting that this undertaking directly inures to the benefit of subcontractors, laborers, materialmen and those performing service on account of or directly in connection with the completion of said contract, as well as for the obligee herein; then this obligation shall be void, otherwise the same shall remain in full force and effect; and

IT IS HEREBY EXPRESSLY UNDERSTOOD AND AGREED, and made a condition hereof, that any judgment rendered against the City of Fort Wayne, as aforesaid, in any suits for damage for injury to real or personal property, or for any injury, sustained by any person growing out of any act or doing of said contractor, or its agents, employees or workmen in the premises, and also that any judgment of any court or award of any Board of Arbitrators or of the State Industrial Board of the State of Indiana rendered against the City of Fort Wayne in any suit or claim arising under said Workmen's Compensation Acts, of the State of Indiana, now in force, relating to compensation for accidental injuries or death suffered by his employees or the employees of any subcontractor or subcontractors in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said contractor, shall be conclusive against each and all parties to this obligation, as to amount, liability and all other things pertaining thereto.

Said surety for value received hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same, shall in any wise affect its obligation on this bond and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications. No change, modification, omission, or addition in and to the terms or conditions of said contract, plans, specifications, drawings, or profile, or any irregularity or defect in said contract or in the proceedings preliminary to the letting and awarding thereof shall in any way effect or operate to release or discharge said surety and the provisions and conditions of Chapter 258 of the Acts of the General Assembly of Indiana, of 1933, shall be, operate as, and become a part of the terms of this bond and said contract the same as if incorporated herein.

IN WITNESS WHEREOF, we have this 10th day of August, 1973, affixed our signatures and corporate seals to three (3) executed original copies of this Agreement.

Nobis-Westropp Construction Co., Inc.

PRINCIPAL

By:

William M. Nobis, Pres.

AUTHORIZED AGENT

Fidelity and Deposit Company of Maryland

SURETY

By:

Duane E. Lupke

Duane E. Lupke, Attorney-in-Fact

STATE OF INDIANA:
SS:
COUNTY OF ALLEN:

BEFORE ME, a Notary Public, in and for said State, came

William M. Nobis

as principal, and Duane E. Lupke


of the Lupke-Rice Associates

Attorney in Fact, for said Fidelity and Deposit

Company of Maryland as surety, with both of

whom I am personally acquainted, and acknowledged that
they subscribed their signatures to the above and fore-
going bond.

SUBSCRIBED TO, before me, a Notary Public, this 10th
day of August, 1973.



Notary Public

My Commission Expires: 12/28/73

Power of Attorney
FIDELITY AND DEPOSIT COMPANY OF MARYLAND

HOME OFFICE: BALTIMORE, MD.

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by JOHN C. GARDNER, Vice-President, and C. M. PECOT, JR., Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which reads as follows:

"The President, or any one of the Executive Vice-Presidents, or any one of the additional Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Resident Assistant Secretaries and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertakings, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgments, decrees, mortgages and instruments in the nature of mortgages, and also all other instruments and documents which the business of the Company may require, and to affix the seal of the Company thereto."

does hereby nominate, constitute and appoint Walter H. Lupke, Jr., Duane E. Lupke, Donald L. Coffey, Gerald Clancy, Bernice Chaffin, Edward B. Rice, Velda B. Thompson and Walter E. Boose, all of Fort Wayne, Indiana, EACH.....
its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings.....

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney revokes those issued on behalf of Walter H. Lupke, Jr., et al, dated August 10, 1972 and on behalf of Walter H. Lupke, Jr., et al, dated January 17, 1973.

The said Assistant Secretary does hereby certify that the foregoing is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 16th.....day of.....February....., A.D. 1973.....

ATTEST: FIDELITY AND DEPOSIT COMPANY OF MARYLAND

(SIGNED)

.....C. M. PECOT, JR..... By.....JOHN C. GARDNER.....
Assistant Secretary Vice-President

STATE OF MARYLAND }
CITY OF BALTIMORE } ss:

On this 16th day of February, A.D. 1973, before the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore, duly commissioned and qualified, came the above-named Vice-President and Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself depose and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal, at the City of Baltimore, the day and year first above written.

(SIGNED)GLORIA J. COLEMAN.....
(SEAL) Notary Public Commission Expires July 1, 1974

CERTIFICATE

I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2 of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 16th day of July, 1969.

RESOLVED: "That the facsimile or mechanically reproduced signature of any Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said Company, this 10th.....day of.....August....., 1973.....

DIGEST SHEET

✓
S-73-08-43

TITLE OF ORDINANCE Contract No. 73-XP-3 Construction of Cook Road Feeder Main
Phase II

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

SYNOPSIS OF ORDINANCE For approval of contract with Nobis-Westropp

Construction for installation of the Cook Road Water Feeder Main, Phase II.

Contract amount is \$28,408.50. Fort Wayne Community Schools will be paying \$18,772.82.

EFFECT OF PASSAGE Provide water to Shawnee Junior High School and area.

Revenue to Utility.

EFFECT OF NON-PASSAGE Not water supply to area.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) _____

Cost to Utility for oversizing - \$9,635.68.

ASSIGNED TO COMMITTEE (J.N.) Public Work WCM

ORDINANCE CHECK-OFF SHEET

INFORMATION REGARDING ORDINANCE

CONTENTS OF ORDINANCE

	BILL NO.	<i>D-73-08-43</i>
	ORDINANCE NO.	<i>D-95-73</i>
X	REGULAR SESSION	<i>8-28-73</i>
	SPECIAL SESSION	
	APPROVED AS TO FORM AND LEGALITY	<i>Keller</i>
	BILL WRITTEN BY	<i>Bd. of Public Works</i>
	DATE INTRODUCED	<i>8-28-73</i>
	REFERRED TO SAID STANDING COMMITTEE	<i>Stu Public Works</i>
	REFERRED TO CITY PLAN	
	LEGAL PUBLIC HEARING	
	LEGAL PUBLICATION	
	JOINT HEARING	
	DEPARTMENT HEARING	
	HOLD FILE	
X	PASS	<i>9-11-73</i>
	DO NOT PASS	
	WITHDRAWN	
	SUSPENSION OF RULES	
	PRIOR APPROVAL	
	ORDINANCE TAKEN OUT OF OFFICE	
	OTHER INSTRUCTIONS REGARDING ORDINANCE	
	CORRECTIONS MADE TO ORDINANCE	
	PEOPLE SPEAKING FOR ORDINANCE	
	PEOPLE SPEAKING AGAINST ORDINANCE	

X	COMMITTEE SHEET
X	VOTE SHEET
	PURCHASE ORDERS
	<i>Contracts</i>
X	BIDS <i>Acknowledged</i>
	ORDERS, BIDS OR OTHER PAPERS TAKEN OUT AND BY WHOM
	LETTER REQUESTING ORDINANCE DRAWN UP BY CITY ATTORNEY
	COMMUNICATIONS FROM
	ZONING MAPS
	<i>Index of</i>
	ABSTRACTS
	TITLES <i>- Bonds</i>
	PRIOR APPROVAL LETTER

Original Study.

COUNCILMAN'S VOTE

	AYES	NAYS	ABSENT
BURNS	X		
HINGA	X		
KRAUS	X		
MOSES	X		
NUCKOLS	X		
D. SCHMIDT	X		
V. SCHMIDT	X		
STIER	X		
TALARICO	X		

COMMENTS: